

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

DARRYL TAYLOR, also known as
Darrel Wood,

Petitioner,

v.

ORDER

Civil File No. 16-4082 (MJD/BRT)

JOE PIGET, Under Sheriff; and
SARAH COREY, Ramsey County
District Attorney,

Respondents.

Darryl Taylor, pro se.

Peter R. Marker, Ramsey County Attorney's Office, Counsel for Respondents.

The above-entitled matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Becky R. Thorson dated January 13, 2017. Petitioner Darryl Taylor filed objections to the Report and Recommendation. In his objections, Taylor informed the Court that the state court presided over his bench trial, and, on January 23, 2017, the state court found Taylor guilty under Minnesota Statute § 609.322, subdivisions 1a(2) (promoting the prostitution of an individual) and 1a(4) (engaging in the sex

trafficking of an individual). Sentencing is set for March 16, 2017. Even if Taylor's petition were construed as a petition under 28 U.S.C. § 2254, such a petition may not be heard until "the applicant has exhausted the remedies available in the courts of the State." 28 U.S.C. § 2254(b)(1)(A); O'Sullivan v. Boerckel, 526 U.S. 838, 842 (1999). As explained in the Report and Recommendation, Taylor has not yet appealed the state trial court's decisions to the state appellate courts, so he has not exhausted the remedies available in the courts of Minnesota.

Pursuant to statute, the Court has conducted a de novo review upon the record. 28 U.S.C. § 636(b)(1); Local Rule 72.2(b). Based upon that review, the Court adopts the Report and Recommendation of United States Magistrate Judge Thorson dated January 13, 2017.

Accordingly, based upon the files, records, and proceedings herein, **IT IS HEREBY ORDERED:**

1. The Court **ADOPTS** the Report and Recommendation of United States Magistrate Judge Becky R. Thorson dated January 13, 2017 [Docket No. 6].
2. The petitioner for a writ of habeas corpus brought by Petitioner Darryl Taylor [Docket No. 1] is **DISMISSED WITHOUT PREJUDICE**.

3. Petitioner's application to proceed in forma pauperis [Docket No. 2] is **DENIED**.

4. No Certificate of Appealability is issued.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: March 8, 2017

s/ Michael J. Davis

Michael J. Davis

United States District Court